

AMENDED IN ASSEMBLY MARCH 8, 2010

AMENDED IN ASSEMBLY SEPTEMBER 3, 2009

AMENDED IN ASSEMBLY JULY 24, 2009

SENATE BILL

No. 830

Introduced by ~~Committee on Governmental Organization~~ (Senators Wright (chair), Benoit, Calderon, Denham, Florez, Harman, Negrete McLeod, Oropeza, Padilla, Romero, Wiggings, Wyland, and Yee) *Senator Wright*

March 19, 2009

An act to amend Section 19401 653w of the ~~Business and Professions Code, relating to horse racing~~; *Penal Code, relating to intellectual property.*

LEGISLATIVE COUNSEL'S DIGEST

SB 830, as amended, ~~Committee on Governmental Organization Wright. Horse racing law: intent. Recording crimes.~~

Existing law provides that a person is guilty of failure to disclose the origin of a recording or audiovisual work if, for commercial advantage or private financial gain, he or she advertises, sells, rents, manufactures, or possesses for those purposes, a recording or audiovisual work that does not disclose the name of the manufacturer, author, artist, performer, or producer, as specified. Failure to disclose the origin of a recording or audiovisual work is punishable by imprisonment in a county jail, imprisonment in the state prison, or a fine, or by both imprisonment and fine, as specified, depending on the number of articles of audio recordings or audiovisual works involved, and whether the offense is a first offense, or 2nd subsequent offense. Existing law defines "recording" for the purpose of these provisions to mean any tangible

medium upon which information or sounds are recorded or otherwise stored, including any phonograph record, disc, tape, audio cassette, wire, film, or other medium on which information or sounds are recorded or stored, but does not include sounds accompanying a motion picture or other visual work.

This bill would expand the definition of “recording” for the purposes of the above provisions to expressly include, but not be limited to, a memory card, flash drive, hard-drive, or data storage device. By expanding the scope of an existing crime, this bill would mandate a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law expresses the intent of the Legislature to authorize parimutuel wagering on horse races while, among other things, supporting the network of California fairs.~~

~~This bill would delete from that expression of legislative intent supporting the network of California fairs.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 653w of the Penal Code is amended to
2 read:

3 653w. (a) A person is guilty of failure to disclose the origin
4 of a recording or audiovisual work if, for commercial advantage
5 or private financial gain, he or she knowingly advertises or offers
6 for sale or resale, or sells or resells, or causes the rental, sale or
7 resale, or rents, or manufactures, or possesses for these purposes,
8 any recording or audiovisual work, the cover, box, jacket, or label
9 of which does not clearly and conspicuously disclose the actual
10 true name and address of the manufacturer thereof and the name
11 of the actual author, artist, performer, producer, programmer, or
12 group thereon. This section does not require the original
13 manufacturer or authorized licensees of software producers to
14 disclose the contributing authors or programmers.

As used in this section, “recording” means any tangible medium upon which information or sounds are recorded or otherwise stored, including, *but not limited to*, any phonograph record, disc, tape, audio cassette, wire, film, *memory card, flash drive, hard-drive, data storage device*, or other medium on which information or sounds are recorded or otherwise stored, but does not include sounds accompanying a motion picture or other audiovisual work.

As used in this section, “audiovisual works” are the physical embodiment of works that consist of related images that are intrinsically intended to be shown using machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects such as films or tapes on which the works are embodied.

(b) Any person who has been convicted of a violation of subdivision (a) shall be punished as follows:

(1) If the offense involves the advertisement, offer for sale or resale, sale, rental, manufacture, or possession for these purposes, of at least 100 articles of audio recordings or 100 articles of audiovisual works described in subdivision (a), the person shall be punished by imprisonment in a county jail not to exceed one year, or by imprisonment in the state prison for two, three, or five years, or by a fine not to exceed two hundred fifty thousand dollars (\$250,000), or by both.

(2) Any other violation of subdivision (a) not described in paragraph (1), shall, upon a first offense, be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both.

(3) A second or subsequent conviction under subdivision (a) not described in paragraph (1), shall be punished by imprisonment in a county jail not to exceed one year or in the state prison, or by a fine not to exceed one hundred thousand dollars (\$100,000), or by both.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 ~~SECTION 1. Section 19401 of the Business and Professions~~
4 ~~Code is amended to read:~~

5 ~~19401. The intent of this chapter is to allow parimutuel~~
6 ~~wagering on horse races, while:~~

7 ~~(a) Assuring protection of the public.~~

8 ~~(b) Encouraging agriculture and the breeding of horses in this~~
9 ~~state.~~

10 ~~(c) Providing for maximum expansion of horse racing~~
11 ~~opportunities in the public interest.~~

12 ~~(d) Providing uniformity of regulation for each type of horse~~
13 ~~racing.~~